

From: [R6HarveyREOC_RIC](#)
To: [R6HarveyInfo](#)
Subject: FW: Impact to Organic crop operations due to TF Vector Control Spay for Harvey
Date: Thursday, September 7, 2017 9:49:41 AM

From: Velez, EduardoM
Sent: Thursday, September 7, 2017 9:48:28 AM (UTC-06:00) Central Time (US & Canada)
To: McPherson, Kenneth
Cc: Rhea, William; Lyssy, Gregory; McAteer, Mike; R6HarveyInfo; R6HarveySITL; R6HarveyREOC_RIC
Subject: Re: Impact to Organic crop operations due to TF Vector Control Spay for Harvey

Negative. However, we did invite John Glendon and Jimmy Wortham from USDA.

Have no problem adding Mr. McEvoy.

Eddie Velez
940-231-8879

From: "McPherson, Kenneth" <McPherson.Kenneth@epa.gov>
Date: Thursday, September 7, 2017 at 9:15:01 AM
To: "Velez, EduardoM" <EduardoM.Velez@fema.dhs.gov>
Cc: "Rhea, William" <Rhea.William@epa.gov>, "Lyssy, Gregory" <lyssy.gregory@epa.gov>, "McAteer, Mike" <mcateer.mike@epa.gov>, "R6HarveyInfo" <R6HarveyInfo@epa.gov>, "R6HarveySITL" <R6HarveySITL@epa.gov>, "R6HarveyInfo" <R6HarveyInfo@epa.gov>, "R6HarveySITL" <R6HarveySITL@epa.gov>, "R6HarveyREOC_RIC" <R6HarveyREOC_RIC@epa.gov>
Subject: RE: Impact to Organic crop operations due to TF Vector Control Spay for Harvey

Eddie: has Mr. McEvoy (USDA) been invited to participate on the TF Vector Control (Harvey) or send a representative? It would be good for USDA to have someone from both the organic certification program and someone from the USDA's National Institute of Food & Agriculture pesticides group to be aware of the various situations on associated with the response and recovery efforts and provide USDA and joint federal guidance/exemptions/etc through the task force. Ken

Kenneth R. McPherson, BCE | Senior Advisor | US EPA Center for Integrated Pest Management | 1445 Ross Avenue | Dallas, TX 75202 | 214.665.6754 |
[Be PestWise](#) | [Support IPM in Schools](#) | [Prevent Mosquitoes](#) | [Prevent Zika](#)

From: Mary Ellen Holliman [mailto:Mary.Holliman@TexasAgriculture.gov]
Sent: Thursday, September 07, 2017 8:59 AM
To: McPherson, Kenneth <McPherson.Kenneth@epa.gov>; miles.mcevoy@ams.usda.gov
Cc: Leslie Smith <Leslie.Smith@TexasAgriculture.gov>; Dale Scott <Dale.Scott@TexasAgriculture.gov>; Whitney.Qualls@dshs.texas.gov; Velez, EduardoM <EduardoM.Velez@fema.dhs.gov>; Rhea, William <Rhea.William@epa.gov>; Lyssy, Gregory <lyssy.gregory@epa.gov>; McAteer, Mike <mcateer.mike@epa.gov>; R6HarveyInfo <R6HarveyInfo@epa.gov>; R6HarveySITL <R6HarveySITL@epa.gov>

Subject: RE: Impact to Organic crop operations due to TF Vector Control Spay for Harvey

Kenneth:

Thank you for your email. Please remember that the NOP Regulations are marketing regulations based upon consumer preferences and not solely based upon pesticide use and livestock production regulations. The NOP Regulations are not concerned with the intent of the application, half-life of the product, etc. but rather that the organic product/livestock comes into contact with a prohibited substance as defined in [7 CFR §205.105](#). When the vector spraying is conducted, it will be air-borne; therefore, either come in direct or indirect contact with organic crops and either come into direct contact, indirect contact, or possibly ingested by pinned or grazing organic livestock. Please review [7 CFR §205.400\(f\)](#) for further clarification and notice how §205.400 states any application, including drift of a prohibited substance.

§205.400 General requirements for certification. A person seeking to receive or maintain organic certification under the regulations in this part must: ...(f) Immediately notify the certifying agent concerning **any**: (1) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation...

If you still desire further guidance, please contact Miles McEvoy, Deputy Administrator of the USDA National Organic Program. You can reach Miles at (202) 720-3252 or by email at miles.mcevoy@ams.usda.gov.

Sincerely,
Mary Ellen Holliman
Coordinator for Organic Certification
Agriculture and Consumer Protection Division
Texas Department of Agriculture
512.936.4178
Organic@TexasAgriculture.gov



From: McPherson, Kenneth [<mailto:McPherson.Kenneth@epa.gov>]
Sent: Wednesday, September 6, 2017 7:57 PM
To: Mary Ellen Holliman
Cc: Leslie Smith; Dale Scott; Whitney.Qualls@dshs.texas.gov; Velez, EduardoM; Rhea, William; Lyssy, Gregory; McAteer, Mike; R6HarveyInfo; R6HarveySITL
Subject: RE: Impact to Organic crop operations due to TF Vector Control Spay for Harvey

Mary Ellen: some of the wording here discusses "treated plant" or "treated animal". The products used are for "area" treatments. I recommend that further guidance from USDA is necessary to determine their definition of a "treated plant" or "treated animal". Normally, plant treated or animal treated means that the pesticide is applied directly to the plant or animal, with an expected residual that provides the intent of the product to the plant or animal. I have attached a copy of specimen labels. Please review the language under "adult mosquito control" to understand the gray

area language. Ken

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From: Mary Ellen Holliman [<mailto:Mary.Holliman@TexasAgriculture.gov>]

Sent: Wednesday, September 06, 2017 12:03 PM

To: Whitney.Qualls@dshs.texas.gov; McPherson, Kenneth <McPherson.Kenneth@epa.gov>

Cc: Leslie Smith <Leslie.Smith@TexasAgriculture.gov>; Dale Scott <Dale.Scott@TexasAgriculture.gov>

Subject: Impact to Organic crop operations due to TF Vector Control Spay for Harvey

Hello Whitney and Kenneth:

Thanks to a quick response and clarification from the USDA National Organic Program (NOP) I am able to confirm that [7 CFR §205.672](#) is effective, even without a specific declaration memo, as long as all of the counties where the application will be made are part of the declared Federal or State Disaster areas. If any county or area is not part of these declared disaster areas, I will need to be supplied with a memo from the authorizing agency that includes a brief explanation as to why the county/area is part of the emergency pest treatment program so that I may disperse the information to the proper entities.

In essence, any current organic crops that experience a direct application or drift from the areal application will lose the ability to make an organic claim but the operation's organic certification will not be jeopardized due to the areal application of the insecticide. TDA is in the process of compiling an outreach notification to organic operations to inform them of this information and will forward to you once finalized.

§205.672 Emergency pest or disease treatment.

When a prohibited substance is applied to a certified operation due to a Federal or State emergency pest or disease treatment program and the certified operation otherwise meets the requirements of this part, the certification status of the operation shall not be affected as a result of the application of the prohibited substance: *Provided, That:*

(a) Any harvested crop or plant part to be harvested that has contact with a prohibited substance applied as the result of a Federal or State emergency pest or disease treatment program cannot be sold, labeled, or represented as organically produced; and

(b) Any livestock that are treated with a prohibited substance applied as the result of a Federal or State emergency pest or disease treatment program or product derived from such treated livestock cannot be sold, labeled, or represented as organically produced: *Except, That:*

(1) Milk or milk products may be sold, labeled, or represented as organically produced beginning 12 months following the last date that the dairy animal was treated with the prohibited substance; and

(2) The offspring of gestating mammalian breeder stock treated with a prohibited substance may be considered organic: *Provided, That,* the breeder stock was not in the last third of gestation on the date that the breeder stock was treated with the prohibited substance.

Sincerely,

Mary Ellen Holliman

Coordinator for Organic Certification

Agriculture and Consumer Protection Division

Texas Department of Agriculture
512.936.4178
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